UNITED
NATIONS

CCPR

International Covenant on Civil and Political Rights

Distr.
GENERAL

CCPR/C/79/Add.37
3 August 1994

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Fifty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Italy

I. The Committee considered the third periodic report of Italy (CCPR/C/64/Add.8) at its 1330th to 1332nd meetings held on 11 and 12 July 1994 (CCPR/C/SR.1330 to 1332) and adopted[1] the following comments.

A. Introduction

II. The Committee expresses its appreciation to the State party for its elaborate and thorough report, which has been prepared in accordance with the Committee's guidelines, and for engaging through a highly qualified delegation in a very constructive dialogue with the Committee. It notes with satisfaction that the information provided in the report, and orally submitted by the delegation in reply to questions posed by members enabled the Committee to obtain a comprehensive view of Italy's actual compliance with the obligations undertaken under the Covenant.

B. Factors and difficulties affecting the implementation of the Covenant

III. The Committee notes the emergence in certain parts of the population of Italy of a trend towards racism and intolerance against foreigners, particularly asylum-seekers and migrant workers, and the resurgence of certain elements militating in favour of political

[1] At its 1353rd meeting (fifty-first session), held on 27 July 1994

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movements reminiscent of a past when human rights were seriously violated. The Committee also notes that there are difficulties in implementing the necessary struggle against organized crime and corruption, especially in the highest spheres of power, in a manner that is compatible with the provisions of the Covenant.

C. Positive aspects

IV. The Committee notes with particular satisfaction the high level of achievement in the respect of human rights in Italy and the strong commitment of the State party to the promotion and protection of human rights at both the national and the international level. In this regard, it welcomes, in particular, the intention of the State party to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

V. The Committee welcomes the efforts taken by the State party to promote equal opportunities for women, particularly through the work of the Commission for Parity and Equality of Opportunities for Men and Women, and progress achieved in improving women's participation in public affairs, professions and private economic sector. It also welcomes the adoption, on 26 April 1993, of a law aiming at strengthening the prevention, elimination and punishment of racist acts. The Committee takes note of agreements recently concluded between the State party and certain religious denominations as well as the proposed establishment of a special office on religious freedom. The improvements in the free legal aid scheme and the establishment of an advisory national bioethics committee are also welcomed. Moreover, the Committee appreciates the various measures taken by the State party to protect and promote the rights of persons belonging to linguistic minorities which constitute a positive approach to the full implementation of article 27 of the Covenant.

D. Principal subjects of concern

VI. The Committee continues to regret the extent of State party's reservations to the Covenant and that it has yet not envisaged to withdraw some of them.

VII. The Committee regrets that the office of the citizens' advocate has not yet been established at the national level and that similar offices do not exist in all regions of the State party. Furthermore, there appear not to be any guidelines regarding cooperation and coordination between those different offices. These facts combined with distinctions in the powers and functions of the regional and local citizens' advocates, may cause unequal protection for individuals depending on the place where they live.

VIII. The Committee is concerned about cases brought to its attention of ill-treatment of persons by police and security forces in public places and police stations. The Committee is also concerned by the increasing number of cases of ill-treatment in prisons. It notes with concern that the Government does not always investigate thoroughly those cases, that torture as such is not punishable in

domestic law, and that, consequently, appropriate sanctions are not always imposed on those found guilty.

IX. The Committee is concerned about the duration of preventive detention as provided for under the law which do not appear to be compatible with the requirements of articles 9 and 14 of the Covenant. Delays in judicial proceedings remain worrisome despite attempts at reducing them. The Committee is also concerned at the various problems faced in the administration of prisons and other detention centres, particularly overcrowding.

X. The Committee is concerned about the excessive concentration of the mass media in a small group of people. Furthermore, it notes that such concentration may affect the enjoyment of the right to freedom of expression and information under article 19 of the Covenant.

XI. The Committee is concerned that the State party's definition of minorities is confined to linguistic minorities within its territory and that, consequently, members of other minorities may not enjoy equal protection of their rights under article 27.

E. Suggestions and recommendations

XII. The Committee recommends that the State party will review its reservations to the Covenant with a view to withdrawing them.

XIII. In view of the fact that criminal legislation does not provide for the death penalty, the Committee wishes to encourage the State party to take the necessary steps to accede to the Second Optional Protocol to the Covenant.

XIV. The Committee expresses the hope that the Government will undertake the necessary measures to establish a citizens' advocate office at the national level. It also recommends that, at the regional level, where this has not already been done, citizens' advocate offices be established and that functions and powers of regional citizens' advocates be harmonized.

XV. The Committee urges that the State party consider making torture a specific criminal offence. In addition, it suggests that the State party further strengthens measures to protect the rights of detainees; to promptly investigate allegations of ill-treatment and to ensure that appropriate penalties are applied whenever such offences are committed; to prevent the commission of such acts through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and to reduce the length of preventive detention, taking into account the principle of presumption of innocence and the complexity of the investigation. The Committee also suggests that more effective and thorough human rights training be provided to law enforcement officials and prison officers.

XVI. The Committee recommends that the State party should re-examine the possibility of civil liability of judges in the light of the

United Nations Basic Principles on the Independence of the Judiciary.

XVII. In order to avoid the inherent risks in the excessive concentration of control of the mass information media in a small group of people, the Committee emphasizes the importance of implementing measures to ensure impartial allocation of resources as well as equitable access to such media, and of adopting anti-trust legislation regulating mass media.

XVIII. The Committee recommends that the State party continue to strengthen its education and training programmes on multi-culturalism with a view to eliminating racial discrimination, and advancing tolerance and understanding among peoples and races.

XIX. Further efforts are required to ensure the equal participation by women in public life and more effective protection of women against all forms of violence.

XX. The Committee would appreciate receiving in the next periodic report information on those matters which due to time constraints remained unanswered, including on the legal measures taken by the State party to allow the implementation of the views of the Committee under the Optional Protocol.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Azerbaijan

1. The Human Rights Committee considered the initial report of Azerbaijan (CCPR/C/81/Add.2) at its 1332nd and 1336th meetings, on 12 and 14 July 1994, and adopted [1] the following comments:

A. Introduction

2. The Committee thanks Azerbaijan for its initial report and welcomes the presence of a high-level delegation before the Committee. It notes the timely submission of the report and thanks the State Party for the core document (HRI/CORE/1/Add.41/Rev.1). The Committee notes with regret however that, while providing detailed information on prevailing legislation in Azerbaijan, the report does not contain enough information on the way in which the Covenant is implemented in practice or on the factors and difficulties affecting the implementation of the Covenant throughout the area under the jurisdiction of Azerbaijan. The information provided orally by the delegation made good these deficiencies to some extent and provided the Committee with a better insight into the human rights situation in Azerbaijan.

B. Factors and difficulties affecting the implementation of the Covenant

3. The situation of armed conflict with a neighbouring country and the recurrent internal unrest are affecting the exercise of human rights in Azerbaijan and have given rise to a pattern of gross human

[1] At its 1354th meeting, on 27 July 1994.

rights violations. Recognized obstacles arising out of the transition from the legal order inherited from the past to a democratic system must be addressed to in a manner compatible with respect to the Covenant.

C. Positive aspects

4. The Committee notes that Azerbaijan has declared that it is bound by the Covenant through a declaration of accession, though it would have been correct for it to have regarded itself as succeeding to the obligations of the Covenant as a member State of the former Soviet Union. Nonetheless, the Committee notes with appreciation that the delegation, addressing questions raised by members of the Committee, did not deny accountability for events occurred in the country after the date of independence but before the date of accession. It also takes note of the efforts of the Government of Azerbaijan to include human rights in its new Constitution, to adopt new human rights legislation and to ensure the rule of law. It also notes that the Government has demonstrated the will to initiate far-reaching structural reforms, particularly with regard to the judiciary.

D. Principal subjects of concern

5. The Committee is concerned by the status of the Covenant within the Azerbaijani legal system and by the lack of clarity regarding the resolution of possible conflicts between the Covenant and national law. Furthermore, it does not seem possible for an individual to invoke the Covenant before the courts.

6. The Committee regrets the position adopted in the report regarding the principle of self-determination. In that connection, it recalls that, under article 1 of the Covenant, that principle applies to all peoples and not merely to colonized peoples.

7. The Committee notes that the state of emergency was declared in 1993 and is concerned by the lack of clarity in the law governing the conditions in which the state of emergency can be implemented.

8. The Committee deeply deplores the events which have occurred recently in Azerbaijan in the context of the armed conflict and have involved numerous violations of the rights guaranteed by the Covenant. There have been reports of cases of summary execution, enforced or involuntary disappearance, torture and other acts of violence against the person, as well as arbitrary detention. The practice of hostage-taking as a retaliatory measure or for bargaining purposes also seems widespread. Such violations have not been investigated and the persons responsible for them have therefore not

been punished. Nor have the victims or their families been compensated.

9. The Committee is disturbed at the number of death sentences pronounced and at the lack of any appeal procedure for persons under sentence of death.

10. The Committee was disturbed by the obstacles which have thus far prevented the implementation of article 12 of the Covenant. Passport applications seem to have been rejected without proper justification. The visa requirement for some categories of persons wishing to leave the country is an unacceptable restriction on the liberty of movement and the requirement of a visa to return to Azerbaijan is contrary to article 12 of the Covenant.

11. The Committee has doubts regarding the independence and impartiality of the judiciary in Azerbaijan and deplores the fact that the "Procuratura" still exists.

12. The Committee notes with concern the lack of laws guaranteeing the right of information and the fact that the laws inherited from the former regime have not been amended to guarantee the rights provided for in article 19 of the Covenant.

13. The Committee is concerned by the power of the Ministry of Justice to refuse to register a political party or an association, which is an obstacle to the pluralism of political parties as provided for in article 25 of the Covenant.

E. Suggestions and recommendations

14. The Committee recommends that the State Party should revise the former legislation as soon as possible, in order to introduce a democratic system more in keeping with the requirements of the Covenant.

15. The Committee urges the Azerbaijani Government to put an end to the gross violations of human rights which have occurred, and continue to occur, in Azerbaijan, to conduct investigations into them, to punish the persons guilty of such acts and to compensate the victims.

16. The Committee recommends that the use of the death penalty should be reduced and that provision should be made for the right to appeal against a death sentence.

17. The Committee invites the Azerbaijani Government to amend its judicial system as quickly as possible and abolish the old "Procuratura".

18. The Committee suggests that the authorities of the State Party should introduce legislation guaranteeing freedom of information and of the press and, in general, freedom of expression and opinion.

19. The Committee recommends that the Azerbaijani Government should ensure the pluralism of political parties and remove obstacles to their registration.

20. The Committee recommends that the Government should take account of the Committee's general comment No. 23 (50), concerning article 27 of the Covenant, in drafting legislative or regulatory texts for the full protection of the rights of individuals belonging to minorities.

21. The Committee stresses the need to improve information and education regarding human rights so as to make the public more familiar with the provisions of the Covenant. It also recommends that the authorities should consider the possibility of acceding to the first optional protocol to the Covenant.